

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

Christopher Fortner,	)	
	)	C/A No. 7:17-2304-TMC
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
	)	
Spartanburg City Public Safety,	)	
Spartanburg City Officer Eggleston,	)	
and Spartanburg City,	)	
	)	
Defendant.	)	
_____	)	

Plaintiff Christopher Fortner, proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. On February 9, 2018, the magistrate judge filed a Report and Recommendation (“Report”) in which she recommended that this case be dismissed without prejudice pursuant to Fed. R. Civ. P. 41 for failure to prosecute. (ECF No. 22). The Plaintiff was informed of his right to file objections to the Report. (ECF No. 22 at 6). However, he did not file objections, and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file

specific written objections to the Report results in a party's waiver of the right to appeal the district court's judgment based upon that recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and the record in this case, the court adopts the magistrate judge's Report (ECF No. 22) and incorporates it herein. Accordingly, Plaintiff's action is **DISMISSED for failure to prosecute** pursuant to Federal Rule of Civil Procedure 41(b) and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982). *See also Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

**IT IS SO ORDERED.**

s/Timothy M. Cain  
United States District Judge

February 27, 2018  
Anderson, South Carolina

#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.